

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 14. Motion for Extension of Time

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form14instructions.pdf>

9th Cir. Case Number(s) 23-4132

Case Name United States of America v. Kittson

Requesting Party Name(s) Daniel Matthew Kittson

I am: ☐ The party requesting the extension.
☒ Counsel for the party or parties requesting the extension.

I request an extension of time to file a:

- ☒ Brief (*you **must** also complete the Declaration on page 3*)
- ☐ Motion to proceed in forma pauperis
- ☐ Motion for a certificate of appealability
- ☐ Response/opposition to a pending motion
- ☐ Reply to a response/opposition to a pending motion
- ☐ Certified Administrative Record
- ☐ Response to court order dated
- ☐ Other (*you **must** describe the document*)

The requested new due date is: Oct 21, 2024

I request the extension of time because (**cannot be left blank**):

(attach additional pages if necessary)

Counsel are seeking a due date of October 21, 2024, for the final reply brief based on the recent legal developments in this area and other currently scheduled trial and briefing dates in other matters. Counsel do anticipate this as the final date for the briefing, as counsel Michael Benson has out-of-country travel starting November 6, 2024.

Signature s/ C. Renee Manes **Date** Aug 21, 2024

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

Recitals in criminal and immigration cases pursuant to Circuit Rule 27-8
Complete this section for criminal or immigration cases.

Previous requests for extension of time to file the document, including any request for a Streamlined Extension of Time under Circuit Rule 31-2.2(a) (*select one*):

- ☒ I have **NOT** filed a previous request to extend time to file the document.
- ☐ I have previously requested an extension of time to file the document.

This motion is my request.
(Examples: first, second)

Bail/detention status (*select one*):

- ☒ The defendant is incarcerated. The projected release date is: Aug 25, 2024 .
- ☐ The petitioner is detained.
- ☐ The defendant/petitioner in this criminal/immigration case is at liberty.

Signature s/ C. Renee Manes

Date Aug 21, 2024

(use "s/[typed name]" to sign electronically-filed documents)

Declaration in support of extension to file brief under Circuit Rule 31-2.2(b)
Complete this section if you are requesting an extension of time to file a brief.

1. I request an extension of time to file the brief.

(Examples: opening, answering, reply, first cross-appeal)

2. The brief's current due date is:

3. The brief's first due date was:

4. A more detailed explanation of why the extension of time to file the brief is necessary: *(Under Circuit Rule 31-2.2(b), a request for extension of time to file a brief must be "supported by a showing of diligence and substantial need" and a conclusory statement as to the press of business does not constitute such a showing. Attach additional pages if necessary.)*

see attached

5. The position of the other party/parties regarding this request is:

☒ Unopposed.

☐ Opposed by *(name of party/parties opposing this motion):*

☐ Unknown. I am unable to verify the position of the other party/parties because:

6. ☒ The court reporter is not in default with regard to any designated transcripts.

If the court reporter is in default, please explain:

7. ☒ I have exercised diligence and I will file the brief within the time requested.

I declare under penalty of perjury that the foregoing is true and correct.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

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USA v. Kittson
No. 23-4132

Form 14, paragraph 4:

Again, counsel are seeking a due date of October 21, 2024, for the final reply brief based on the recent legal developments in this area and other currently scheduled trial and briefing dates in other matters. On the former, one of the issues raised on appeal is the constitutional validity of limitations over firearm ownership set forth in 18 U.S.C. § 922(o), based on the Supreme Court's analysis of the core Second Amendment rights set forth in decisions including *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022). Since the filing of the opening brief, the Supreme Court issue a further analysis of these rights in *United States v. Rahimi*, 602 U.S. ___, 144 S. Ct. 1889 (2024), and counsel need to analyze the arguments presented in light of this new controlling authority.

Then, counsel Renée Manes currently has an opening brief in a formal capital habeas matter (now non-capital) due on September 16, 2024, but had planned to complete the brief earlier as counsel has a trial that was set in the District of Nevada for September 30, 2024 (competency issues have developed in that matter, likely impacting the trial date). In addition, counsel Renée Manes is in active global plea negotiations on a complex Indictment level case involving RICO allegations and over seventy charged counts (which was charged as a potential capital case, but death was not authorized by the Capital Case Committee) that has been pending in the Northern District of California for some time. Given the nature of the case and other scheduling dates, the global plea negotiations need to be completed at the local level within the next three weeks, so that any agreed upon proposed resolution can be forwarded to the DOJ in Washington, D.C., for approval with a goal of obtaining any finalized plea in the next two months. Both of those trial level matters have required extensive out-of-district travel for investigation, consultation with clients, and court appearances.

Counsel Michael Benson also has an out of district case in the District of Columbia that he has been working on for more than a year while the matter was pre-Indictment. Charges were recently filed and it is anticipated that this case will go to trial in the next several months, requiring extensive preparation. Additionally, Michael Benson has several complicated sentencings and motions that are scheduled to occur in the next month and a half, and pre-trial litigation in

another indictment level matter that could also go to trial within the next six months.

Counsel have jointly consulted and reviewed their schedule, and agree that they will be able to complete the briefing during the second week in October, and seek October 21, 2024, as the filing date to allow time for our internal review process.